

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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WILLIAM K. DUFFY, et al.,

Plaintiffs,

-against-

EAST PORT EXCAVATION & UTILITIES  
CONTRACTORS, INC., et al.,

Defendants.  
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FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ AUG 25 2014 ★  
LONG ISLAND OFFICE

**ORDER**

07 CV 217 (DRH) (ARL)

**HURLEY, Senior District Judge:**

Plaintiffs, the trustees of the Local 138, 138A & 138B, International Union of Operating Engineers Welfare Fund, Legal Fund, Apprenticeship Training Fund, and Annuity Fund, and Michael Fanning, CEO of the Central Pension Fund (collectively the “plaintiffs”) commenced this action pursuant to Sections 515 and 502(a)(3) of the Employee Retirement Income Security Act (“ERISA”), alleging that defendants East Port Excavation & Utilities Contractors, Inc., Eastport Manor Construction, Inc. and Steven Governale (collectively “defendants”) violated their statutory and contractual obligations to make contributions to the various plaintiffs’ funds. Following a bench trial held on June 6, 7, and 20, 2011, by Memorandum and Order dated September 19, 2013, the Court found the defendants jointly and severally liable for contributions not made to plaintiffs for the period June 1, 2000 to December 31, 2009. As part of that Order, the Court directed plaintiffs to submit an affidavit on or before November 8, 2013 in support of their request for attorneys’ fees and costs and directed defendants to file any opposition by December 6, 2013. Plaintiffs filed an affidavit in support on November 8, 2013, and defendants did not file any opposition.

On March 3, 2014, the Court referred the plaintiffs’ motion for attorneys’ fees to

Magistrate Judge Arlene R. Lindsay. On May 23, 2014, Judge Lindsay issued a Report and Recommendation recommending that plaintiffs be awarded attorneys' fees in the amount of \$39,527.00 and costs in the amount of \$2,444.22. At this time, no party has filed any objections to the Report and Recommendation.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and its result. Accordingly, the Court adopts Judge Lindsay's May 23, 2014 Report and Recommendation as set forth therein. Accordingly, the Court awards plaintiffs \$39,527.00 in attorneys' fees and \$2,444.22 in costs. The clerk of the Court is directed to enter judgment in accordance with the attached Judgment<sup>1</sup> reflecting these amounts as well as the amounts due to plaintiffs in unpaid contributions, interest on the unpaid contributions, liquidated damages, and audit fees.

**SO ORDERED.**

Dated: Central Islip, New York  
August 25, 2014

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/s/  
Denis R. Hurley  
United States District Judge

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<sup>1</sup> As directed by the Court's Order of September 19, 2013, plaintiffs submitted a proposed judgment and accompanying statement of damages. Defendants did not oppose plaintiffs' proposed judgment.